

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXX**

**Petitioner**

**v**

**File No. 121818-001**

**Physicians Health Plan of Mid-Michigan**  
**Respondent**

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**Issued and entered**  
**this 28<sup>th</sup> day of September 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 9, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

Physicians Health Plan of Mid-Michigan (PHP) was notified of the request for external review. On June 14, 2011, PHP furnished the information it used in making its final adverse determination. On June 16, 2011 after a preliminary review of the material submitted, the Commissioner accepted the request for external review.

This case involves medical issues. Therefore, the Commissioner assigned the matter to an independent review organization which submitted its recommendation on July 1, 2011. A copy of the complete report is provided to the parties with this Order.

**II. FACTUAL BACKGROUND**

The Petitioner is a member of PHP. His health care benefits are defined in the PHP HMO Plus certificate of coverage (the certificate).

The Petitioner has a history of bilateral blepharochalasis. Blepharochalasis is "a condition in which there is a redundancy of the skin of the upper eyelids so that a fold of skin hangs down, often concealing the tarsal margin when the eye is open." (*Stedman's Medical Dictionary*, 27<sup>th</sup> Ed.)

In March 2010, Petitioner requested authorization for bilateral blepharoplasty. PHP denied the request ruling that Petitioner did not meet its criteria for surgery.

On July 20, 2010, Petitioner proceeded with the surgery with the knowledge that services PHP did not authorize the surgery and paid the provider the full cost for the procedures. He then submitted a request for reimbursement to PHP which once again denied coverage. The Petitioner appealed the denial through PHP's internal grievance process. PHP affirmed its decision and issued a final adverse determination April 20, 2011.

### **III. ISSUE**

Did PHP properly deny coverage for Petitioner's bilateral blepharoplasty under the terms of the certificate?

### **IV. ANALYSIS**

#### **Petitioner's Argument**

The Petitioner argues that the bilateral blepharoplasty surgery was medically necessary he says:

The eyelid operation which cost me \$2,100.00 was performed to correct my vision problems, eliminating the occurrence of my sleepy eyes which were seriously endangering and impeding my safety on the road.

#### **Respondent's Argument**

In its April 20, 2011, final adverse determination PHP denied coverage for the blepharoplasty stating:

The original decision to deny your request was upheld because your benefits do not include coverage for a blepharoplasty when criteria are not met. We use criteria established by Milliman Care Guidelines, a nationally recognized company. . . . To meet the criteria stated, your eyelids must be causing an impairment of your central vision. Central vision impairment is defined as at least 20 degrees above or below fixation. According to the documentation provided to PHPMM your central vision is intact. There is no impairment of the vision above or below fixation. . . .

#### **Commissioner's Review**

PHP provides coverage for a blepharoplasty when its criteria are met. PHP has adopted the Milliman Care Guidelines entitled "Blepharoplasty, Canthoplasty, and Related Procedures." The conditions for which coverage is provided are:

### **Clinical Indications for Procedure**

- Blepharoplasty, canthoplasty, or related procedures are indicated for **ALL** of the following:
- Appropriate clinical condition, as indicated by 1 or more of the following:
  - Ptosis of lid or brow interfering with central vision (i.e., central 40 degrees of vision or 20 degrees above and below fixation) . . .
  - Ectropion . . .
  - Exposure keratitis . . .
  - Entropion. . .

The material submitted by the Petitioner indicates that he is seeking coverage for surgery to correct ptosis of the eyelid. The question of medical necessity and Petitioner's eligibility for the blepharoplasty surgery was presented to an independent medical review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act. The IRO reviewer is a physician who is board certified in ophthalmology and has been in active practice for more than 15 years. The IRO report included the following analysis:

[V]isual field testing on 4/9/09 demonstrated absolute bilateral superior scotoma to 24 degrees of fixation and a 30 degree improvement in both superior visual fields was shown by repeating the test with taped eyelids. . . . [C]orneal reflexes appeared to be within 2mm of the upper eyelid margin. . . .

[F]unctional eyelid surgery is indicated for any disorder that results in overt impairment of visual function or for conditions that [carry] the potential for injury or impairment of the eye itself. . . .

The member had complaints of functional vision loss (difficulty driving) associated with his upper eyelids blocking his vision. . . . The member was found to have dermatochalasis and ptosis on examination. . . . [T]hese findings were supported by visual field tests, which showed superior visual field loss and improvement with eyelid taping. . . . [P]hotographs showing dermatochalasis [*sic*] and ptosis approaching the corneal light reflexes also supported the need for surgery in this member's case.

. . . [T]he bilateral blepharoplasty that the member underwent on 7/20/10 was medically necessary for treatment of his condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO's recommendation is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's

recommendation.” MCL 550.1911(16)(b). The IRO’s analysis is based on extensive experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO’s recommendation should be rejected in the present case.

The Commissioner accepts the conclusion of the IRO and finds that Petitioner meets the criteria for coverage. Therefore, PHP’s denial was not consistent with the terms of its certificate and guidelines.

## **V. ORDER**

The Commissioner reverses PHP’s April 20, 2011, final adverse determination. PHP shall, within 60 days of the date of this Order, provide reimbursement for the July 20, 2010, blepharoplasty surgery, subject to any applicable copayment or deductible requirements. PHP shall, within seven (7) days of providing coverage, provide the Commissioner with proof it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free (877) 999-6442.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner